

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH CAROLINA  
BEAUFORT DIVISION

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SHERRIE M. OSBORN,	)	Civil Action No.: 9:05-2010-PMD
	)	
Plaintiff,	)	ORDER GRANTING DEFENDANT'S
	)	MOTION TO COMPEL
	)	(OR TO REQUIRE DISCLOSURE)
ANDERSON COMMUNICATION GROUP,	)	
	)	
Defendant.	)	
_____	)	

Defendant filed a motion to compel on or about March 9, 2006, seeking to compel Adelphia Communication Corporation ("Adelphia") to respond to a subpoena duces tecum.

In this case the plaintiff alleges, among other things, that she was terminated from defendant because she complained about sexual harassment. Defendant denies these allegations.

On or about December 23, 2005, David Anderson, defendant's CEO, received a threatening e-mail. The e-mail did not identify the sender, but only the following IP address: 69.164.52.10, <[stoned@acg-1.com](mailto:stoned@acg-1.com)>. Concerned, defendant and defendant's counsel contacted the internet provider, Adelphia, in an attempt to identify the person responsible for sending the threatening e-mail. Adelphia was cooperative but advised that they could not disclose the information requested without a court order, and cited the Cable Communications Policy Act of 1984, 98 Stat. 2779, as amended (47 USC § 551).

On or about January 23, 2006, defendant served Adelphia with a subpoena duces tecum seeking documents which identified the owner of the above IP address. (See Exhibit 1 to defendant's Motion to Compel, subpoena). On or about January 26, 2006, Adelphia responded to the subpoena by written correspondence stating that, pursuant to the Cable Communications Policy Act, it could not comply with the subpoena unless and until it received a court order requiring disclosure. (See Exhibit 2 to defendant's Motion to Compel, correspondence from

Adelphia). Adelphia has assured defendant and defendant's counsel that it will fully cooperate and provide the requested information upon receipt of an order from this court.

According to defendant, it seeks this information so that it can determine whether the plaintiff is the owner of the IP address and/or the sender of the threatening e-mail. If she is, defendant contends such information could be relevant to this lawsuit.

A hearing on this matter was held March 22, 2006. Prior to the hearing plaintiff's counsel filed a Return to defendant's Motion to Compel which advised that plaintiff had no objection to the relief sought by defendant. Counsel for the defendant appeared at the hearing. Plaintiff's counsel did not appear at the hearing and, likewise, no one appeared on behalf of Adelphia. All parties and Adelphia were notified of the hearing.

Based upon the above, and pursuant to Rule 37 FRCP and subject to the stipulation below, this court grants defendant's Motion to Compel and hereby orders Adelphia Communications Corporation to fully comply with defendant's subpoena by providing defendant's counsel with all information and documents requested by the said subpoena.

Because Adelphia is a Cable Internet Service Provider, it is governed by the Cable Communications Policy Act, 47 U.S.C. § 551, et seq. Accordingly, this order is being issued pursuant to 47 U.S.C. § 551(c)(2)(B) of the Act and, as such, Adelphia is ordered to notify the subscriber of this order and to then provide the subscriber ten (10) business days from notification of the order to intervene in these proceedings.

AND IT IS SO ORDERED!



Robert S. Carr  
United States Judge

Charleston, South Carolina

3/20/ 2006